



General Assembly

February Session, 2000

Amendment

LCO No. 5209

Offered by:

REP. AMANN, 118th Dist.

REP. NARDELLO, 89th Dist.

REP. MURPHY, 81st Dist.

To: Subst. House Bill No. 5776

File No. 589

Cal. No. 454

***"An Act Concerning A Single Factor Apportionment
Formula For Manufacturers And Broadcasters Under
The Corporation Business Tax And Economic
Development Incentives For Certain Financial
Institutions."***

1 After line 589, insert the following and renumber the remaining
2 section accordingly:

3 "Sec. 7. Section 17b-490 of the general statutes is repealed and the
4 following is substituted in lieu thereof:

5 As used in sections 17b-490 to 17b-498, inclusive, as amended by
6 this act:

7 (a) "Pharmacy" means a pharmacy licensed under section 20-594 or
8 a pharmacy located in a health care institution, as defined in
9 subsection (a) of section 19a-490, which elects to participate in Part A
10 and Part B of the program;

11 (b) "Prescription drugs" means (1) legend drugs, as defined in
12 section 20-571, (2) any other drugs which by state law or regulation
13 require the prescription of a licensed practitioner for dispensing,
14 except products prescribed for cosmetic purposes as specified in
15 regulations adopted pursuant to section 17b-494, as amended by this
16 act, and on and after September 15, 1991, diet pills, smoking cessation
17 gum, contraceptives, multivitamin combinations, cough preparations
18 and antihistamines, and (3) insulin, insulin syringes and insulin
19 needles;

20 (c) "Reasonable cost" means the cost of the prescription drug
21 determined in accordance with the formula adopted by the
22 Commissioner of Social Services in regulations for medical assistance
23 purposes plus a dispensing fee equal to the fee determined by said
24 commissioner for medical assistance purposes;

25 (d) "Resident" means a person legally domiciled within the state for
26 a period of not less than one hundred eighty-three days immediately
27 preceding the date of application for inclusion in Part A or Part B of
28 the program. Mere seasonal or temporary residences within the state,
29 of whatever duration, shall not constitute domicile;

30 (e) "Disabled" means a person over eighteen years of age who is
31 receiving disability payments pursuant to either Title 2 or Title 16 of
32 the Social Security Act of 1935, as amended;

33 (f) "Commissioner" means the Commissioner of Social Services;

34 (g) "Income" means adjusted gross income as determined for
35 purposes of the federal income tax plus any other income of such
36 person not included in such adjusted gross income minus Medicare
37 Part B premium payments. The amount of any Medicaid payments
38 made on behalf of such person or the spouse of such person shall not
39 constitute income;

40 (h) "Program" means the Connecticut Pharmaceutical Assistance
41 Contract to the Elderly and the Disabled Program otherwise known as

42 ConnPACE. The program shall consist of Part A and Part B;

43 (i) "Pharmaceutical manufacturer" means any entity holding legal
44 title to or possession of a national drug code number issued by the
45 federal Food and Drug Administration;

46 (j) "Average manufacturer price" means the average price paid by a
47 wholesaler to a pharmaceutical manufacturer, after the deduction of
48 any customary prompt payment discounts, for a product distributed
49 for retail sale.

50 Sec. 8. Section 17b-491 of the general statutes is repealed and the
51 following is substituted in lieu thereof:

52 (a) There shall be a "Connecticut Pharmaceutical Assistance
53 Contract to the Elderly and the Disabled Program", Part A and Part B,
54 which shall be within the Department of Social Services. [The] Part A
55 of the program shall consist of payments by the state to pharmacies for
56 the reasonable cost of prescription drugs dispensed to eligible persons
57 minus a copayment charge, effective July 1, 1993, of twelve dollars for
58 each prescription. The pharmacy shall collect the copayment charge
59 from the eligible person at the time of each purchase of prescription
60 drugs, and shall not waive, discount or rebate in whole or in part such
61 amount.

62 (b) Notwithstanding the provisions of subsection (a), effective
63 September 15, 1991, payment by the state to a pharmacy under Part A
64 of the program may be based on the price paid directly by a pharmacy
65 to a pharmaceutical manufacturer for drugs dispensed under Part A of
66 the program minus the copayment charge, plus the dispensing fee, if
67 the direct price paid by the pharmacy is lower than the reasonable cost
68 of such drugs.

69 (c) Effective September 15, 1991, reimbursement to a pharmacy for
70 prescription drugs dispensed under Part A of the program shall be
71 based upon actual package size costs of drugs purchased by the
72 pharmacy in units larger than or smaller than one hundred.

73 (d) The commissioner shall establish an application form whereby a
74 pharmaceutical manufacturer may apply to participate in Part A and
75 Part B of the program. Upon receipt of a completed application, the
76 department shall issue a certificate of participation to the
77 manufacturer. Participation by a pharmaceutical manufacturer shall
78 require that the department shall receive a rebate from the
79 pharmaceutical manufacturer equal to the rebate supplied by the
80 manufacturer under Section 1927 of Title XIX of the Social Security Act
81 for every prescription drug dispensed under Part A or Part B of the
82 program. A participating pharmaceutical manufacturer shall make
83 quarterly rebate payments to the department equal to the rebate
84 supplied by the manufacturer under Section 1927 of Title XIX of the
85 Social Security Act for the total number of dosage units of each form
86 and strength of a prescription drug which the department reports as
87 reimbursed to providers of prescription drugs, provided such
88 payments shall not be due until thirty days following the
89 manufacturer's receipt of utilization data from the department
90 including the number of dosage units reimbursed to providers of
91 prescription drugs during the quarter for which payment is due.

92 (e) No pharmacy may participate in Part A of the program unless it
93 participates in Part B of the program. A pharmacy shall charge any
94 resident participating in Part B of the program an amount for
95 prescription drugs equal to the amount reimbursed for such drugs to a
96 pharmacy under Part A of the program. The commissioner shall pay to
97 each pharmacy participating in Part B of the program the difference
98 between the price the prescription drug is sold to a participant in Part
99 B of the program and the average manufacturer price for such drug.
100 Each such pharmacy shall submit to the department a quarterly
101 statement that specifies the total number of dosage units of each form
102 and strength of a prescription drug which such pharmacy has
103 dispensed during such quarterly period. The department shall
104 immediately transmit such information to the pharmaceutical
105 manufacturer.

106 [(e)] (f) All prescription drugs of a pharmaceutical manufacturer

107 that participates in Part A of the program pursuant to subsection (d) of
108 this section shall be subject to prospective drug utilization review, but
109 not prior authorization. Any prescription drug of a manufacturer that
110 does not participate in Part A of the program shall not be
111 reimbursable, unless the department determines the prescription drug
112 is essential to program participants.

113 Sec. 9. Section 17b-492 of the general statutes is repealed and the
114 following is substituted in lieu thereof:

115 (a) Eligibility for participation in Part A of the program shall be
116 limited to any resident (1) who is sixty-five years of age or older or
117 who is disabled, (2) whose annual income, if unmarried, is less than
118 thirteen thousand eight hundred dollars, or whose annual income, if
119 married, when combined with that of [his] such resident's spouse is
120 less than sixteen thousand six hundred dollars, (3) who is not insured
121 under a policy which provides full or partial coverage for prescription
122 drugs once a deductible amount is met, and (4) on and after September
123 15, 1991, who pays an annual twenty-five-dollar registration fee to the
124 Department of Social Services. On January 1, 1998, and annually
125 thereafter, the commissioner shall, by the adoption of regulations in
126 accordance with chapter 54, increase the income limits established
127 under this subsection over those of the previous fiscal year to reflect
128 the annual inflation adjustment in Social Security income, if any. Each
129 such adjustment shall be determined to the nearest one hundred
130 dollars.

131 (b) Eligibility for participation in Part B of the program shall be
132 limited to any resident (1) who is sixty-five years of age or older, (2)
133 who does not qualify for Part A of the program, (3) who is not insured
134 under a policy that provides full or partial coverage for prescription
135 drugs once a deductible amount is met, (4) whose annual income does
136 not exceed four hundred per cent of the federal poverty level, and (5)
137 who pays an annual twenty-five dollar registration fee to the
138 Department of Social Services.

139 [(b)] (c) Payment for a prescription under Part A or Part B of the
140 program shall be made only if no other plan of insurance or assistance
141 is available to an eligible person for such prescription at the time of
142 dispensing. The pharmacy shall make reasonable efforts to ascertain
143 the existence of other insurance or assistance.

144 [(c)] (d) Any eligible resident who (1) is insured under a policy
145 which provides full or partial coverage for prescription drugs and (2)
146 expects to exhaust such coverage, may apply to participate in Part A or
147 Part B of the program prior to the exhaustion of such coverage. Such
148 application shall be valid for the applicable income year. To be
149 included in Part A or Part B of the program, on or after the date the
150 applicant exhausts such coverage, [he] the applicant or [his] the
151 applicant's designee shall notify the department that such coverage is
152 exhausted and, if required by the department, shall submit evidence of
153 exhaustion of coverage. Not later than ten days after an eligible
154 resident submits such evidence, [he] such resident shall be included in
155 Part A or Part B of the program. [The] Part A or Part B of the program
156 shall (A) cover prescriptions that are not covered by any other plan of
157 insurance or assistance available to the eligible resident and that meet
158 the requirements of this chapter and (B) retroactively cover such
159 prescriptions filled after or concurrently with the exhaustion of such
160 coverage. Nothing in this subsection shall be construed to prevent a
161 resident from applying to participate in Part A or Part B of the
162 program as otherwise permitted by this chapter and regulations
163 adopted pursuant to this chapter.

164 [(d)] (e) The Commissioner of Social Services may adopt regulations
165 in accordance with the provisions of chapter 54 to implement the
166 provisions of subsection (c) of this section. Such regulations may
167 provide for the electronic transmission of relevant coverage
168 information between a pharmacist and the department or between an
169 insurer and the department in order to expedite applications and
170 notice.

171 Sec. 10. Section 17b-493 of the general statutes is repealed and the

172 following is substituted in lieu thereof:

173 A pharmacist shall, except as limited by subsection (c) of section 20-
174 619, substitute a therapeutically and chemically equivalent generic
175 drug product for a prescribed drug product when filling a prescription
176 for an eligible person under Part A and Part B of the program.

177 Sec. 11. Section 17b-494 of the general statutes is repealed and the
178 following is substituted in lieu thereof:

179 The Commissioner of Social Services shall adopt regulations, in
180 accordance with the provisions of chapter 54, to establish (1) a system
181 for determining eligibility and disqualification under Part A and Part B
182 of the program, including provisions for an identification number and
183 a renewable, nontransferable identification card; (2) requirements for
184 the use of the identification number and card by the pharmacy and the
185 eligible person; (3) a system of payments; (4) limitations on the
186 maximum quantity per prescription which shall not exceed a thirty-
187 day supply or one hundred twenty oral dosage units whichever is
188 greater; (5) requirements as to records to be kept by the pharmacy,
189 including patient profiles; (6) products prescribed for cosmetic and
190 other purposes which shall not be covered under Part A and Part B of
191 the program; and (7) such other provisions as are necessary to
192 implement the provisions of sections 17b-490 to 17b-495, inclusive, as
193 amended by this act.

194 Sec. 12. Section 17b-495 of the general statutes is repealed and the
195 following is substituted in lieu thereof:

196 (a) The commissioner may enter into an agreement with a fiscal
197 intermediary which may be an agency of the state, or a person, firm or
198 public or nonprofit corporation, for the administration of the whole or
199 any part of Part A and Part B of the program. Any such contract shall
200 be subject to the provisions of sections 4a-57 and 4a-59, except that
201 preference shall be given to persons, firms or corporations doing
202 business in the state.

203 (b) The contract shall require the fiscal intermediary to submit
204 quarterly reports to the commissioner on the operation of Part A and
205 Part B of the program, including financial and utilization statistics as to
206 drug use by therapeutic category, actuarial projections, an outline of
207 problems encountered in the administration of the program and
208 suggested solutions to the same and any recommendations to enhance
209 the program.

210 (c) The commissioner shall verify the propriety and reasonableness
211 of payments to providers participating in Part A of the program,
212 through field audit examinations and other reasonable means, to the
213 extent possible within available appropriations. The commissioner
214 shall submit an annual report, on or before February first of each year,
215 to the Secretary of the Office of Policy and Management and the
216 chairpersons of the joint standing committee of the General Assembly
217 having cognizance of matters relating to appropriations and the
218 budgets of state agencies outlining the program for carrying out such
219 verifications and including the results of such verifications.

220 (d) The commissioner shall submit quarterly reports, within thirty
221 days after the end of each fiscal quarter, to the Governor and the
222 chairpersons of the joint standing committees of the General Assembly
223 having cognizance of matters relating to appropriations and the
224 budgets of state agencies and public health. The report shall include a
225 copy of the most recent report of the fiscal intermediary, if any, and (1)
226 the number of consumers eligible for Part A and Part B of the program,
227 (2) the number of consumers utilizing the program, (3) an outline of
228 and a report on the educational outreach program, (4) the number of
229 appeals, (5) an outline of problems encountered in the administration
230 of the program and suggested solutions and any recommendations to
231 enhance the program.

232 Sec. 13. Section 17b-496 of the general statutes is repealed and the
233 following is substituted in lieu thereof:

234 Any person aggrieved by any action of the commissioner in

235 connection with the administration of Part A or Part B of the program
236 shall have a right to a hearing before the commissioner in accordance
237 with the provisions of chapter 54.

238 Sec. 14. Section 17b-498 of the general statutes is repealed and the
239 following is substituted in lieu thereof:

240 The Commissioner of Social Services shall undertake an educational
241 outreach program to make known the provisions of Part A and Part B
242 of the program to the public, with emphasis on reaching the elderly
243 and the disabled in the state through the various local and state-wide
244 agencies and organizations concerned with the elderly and the
245 disabled, and to all pharmacies and physicians in the state."